

THE HONORABLE JOHN C. COUGHENOUR

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES,

Plaintiff,

vs.

KENNETH WARREN RHULE and
KENNETH JOHN RHULE,

Defendants.

Case No. 2:20-cr-00105-JCC

[PROPOSED] ORDER GRANTING
STIPULATED MOTION TO
CONTINUE TRIAL AND PRETRIAL
MOTIONS DEADLINE

This matter comes before the Court on the joint motion of Kenneth Warren Rhule, Kenneth John Rhule, and the government to continue the trial and pretrial motions deadline currently scheduled in this case. (Dkt. No. ____). Having thoroughly considered the parties' briefing and the relevant record and circumstances of this case, the Court hereby GRANTS the motion for the reasons explained herein.

Trial is currently set for November 1, 2021, with a deadline for filing pretrial motions on September 3, 2021. (*See* Dkt. No. 101.) The parties argue a continuance is necessary because the case is complex; the government has produced over 350,000 pages of discovery, with discovery

[PROPOSED] ORDER GRANTING JOINT
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(Case No. 2:20-cr-00105-JCC) - 1

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ongoing, including recent production of additional lab reports; and defense counsel needs additional time to examine the discovery, view the evidence seized, consult with experts, confer with their clients, and effectively prepare pretrial motions and for trial. The parties request that the Court schedule trial on or after March 7, 2022.

The Court also considers the context in which this motion arises. The COVID-19 pandemic has significantly impacted the Court's operations during the course of this case. (*See* General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20, and 18-20, each of which the Court incorporates by reference.) Specifically, the pandemic has made it difficult for the Court to obtain an adequate spectrum of jurors to represent a fair cross section of the community, and public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to be present in the courtroom. (*See generally id.*). Jury trials have resumed only very recently, with public health measures in place to protect all participants. (*See* General Order 10-21.)

The Court FINDS that the ends of justice served by continuing trial until March 2022 outweigh the best interests of Defendants and the public to a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). The reasons for this finding are:

1. Given the complexity of this case and the extraordinary volume of discovery, a failure to grant a continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).
2. The case is sufficiently complex that it is unreasonable to expect adequate preparation for pretrial proceedings or the trial itself, within the current trial schedule, as set forth in 18 U.S.C. § 3161(h)(7)(B)(ii).

- 1 3. Because additional time is needed for defense counsel to effectively prepare for trial and
2 to determine whether a resolution short of trial can be reached for the defendants in this
3 matter, a continuance of the trial date is required to avoid an otherwise likely miscarriage
4 of justice. 18 U.S.C. § 3161(h)(7)(B)(i).
- 5 4. Until very recently, the COVID-19 pandemic has made it difficult for the Court to obtain
6 an adequate spectrum of jurors to represent a fair cross section of the community. Public
7 health guidance in response to changing circumstances related to the pandemic may
8 impact the ability of all participants to be present in the courtroom on trial date as
9 currently scheduled, which would likely make proceeding with an earlier trial
10 impossible or would result in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

11 Accordingly, the Court ORDERS:

- 12 1. The November 1, 2021 jury trial is CONTINUED until March __, 2022 at 9:30 a.m.
- 13 2. The September 3, 2021 pretrial motions deadline is CONTINUED until February __,
14 2022.
- 15 3. The period from the date of this order until March __, 2022 is an excludable time period
16 under 18 U.S.C. § 3161(h)(7)(A).

17 DATED this __ day of _____, 2021.

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20 _____
THE HONORABLE JOHN C. COUGHENOUR
UNITED STATES DISTRICT JUDGE

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Presented by:

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